



NEWS

U.S. DEPARTMENT OF THE INTERIOR

Office of the Secretary

For Immediate Release

December 1, 1998

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SECRETARY BABBITT TO ANNOUNCE SPECIAL RULE TO HELP RECOVER THE PREBLE'S MEADOW JUMPING MOUSE

Secretary of the Interior Bruce Babbitt will host a stakeholder meeting in Denver, Colorado, on Friday, December 4, to announce a proposed special rule to help recover the Preble's meadow jumping mouse.

The U.S. Fish and Wildlife Service listed the Preble's meadow jumping mouse as a threatened species in May, 1998. The special rule, known as a 4(d) rule after a section of the Endangered Species Act, is part of an overall conservation and recovery planning process for the species.

"We are using the flexibility built into the Endangered Species Act to forge new partnerships that ensure a bright future for the Preble's jumping mouse and people on the Front Range," Secretary Babbitt said. "The new rule will serve as a template for local conservation planning. It is an excellent example of cooperation in conservation on the Front Range in innovative ways that preserve not only habitat for threatened wildlife species but the values that drew people to live in these spectacular landscapes."

The State of Colorado and the Interior Department signed a Memorandum of Agreement in 1995 to conserve endangered species such as the Preble's meadow jumping mouse and many local communities in both Colorado and Wyoming already are developing conservation plans.

The U.S. Fish and Wildlife Service is working with the States of Colorado and Wyoming and local governments to develop plans that can be put in place to conserve the mouse while still allowing some development activities.

The meeting will begin at 9:30am and will be held in the Arapahoe Ballrooms A and B at the Stapleton Plaza Inn, located at 3333 Quebec Street in Denver. Following the meeting, which is open to media, Secretary Babbitt will be available for questions from the media in Arapahoe Ballroom C at about 10:30am.

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Directions to the site from Denver: Take I-25 to I-70 east. Take exit 278 (Quebec Street). Proceed ½ mile along Quebec Street to the Stapleton Plaza Inn (3333 Quebec Street).

Preble's Meadow Jumping Mouse proposed 4(d) rule

Talking Points

- This rule does four important things:

1. The rule identifies the highest priority areas for the Preble's Meadow Jumping Mouse protection. Conversely, the rule identifies those areas that are **not** important for the conservation of the mouse and where development can continue without having to worry about the mouse.

2. It maintains the prohibitions against take that are important to the conservation of the mouse. This includes incidental take caused by new land and water development and new or modified agricultural activities.

3. The rule exempts a variety of activities from the take prohibitions of the ESA including ongoing agricultural practices such as grazing and mowing, maintenance and replacement of existing landscaping, ordinary household rodent control activities, and the use of existing water rights. The Service does not believe that these exemptions will in any way compromise recovery efforts for the mouse and will, in fact, promote more landowner and local government support for mouse conservation efforts.

4. The rule allows for local governments to approve developments that would modify up to four percent of a mouse protection area assuming the impacts caused by the development would be fully mitigated.

- Recovery of the mouse is our goal and it is a goal that can be readily achieved. However, the Federal government can not do it alone. Local governments are in a pivotal position to ensure that the needs of the mouse are factored into the local land use planning and permitting decisions.
- This rule provides local governments the opportunity to use their authorities to protect mouse habitat and avoid the need for project proponents to have to get separate permits from the Fish and Wildlife Service. We think this approach will make for more efficient government, reduce red tape and provide for greater protection of mouse habitat.
- The greatest benefits to the Preble's Meadow Jumping Mouse will be realized by bringing the state-led conservation planning effort to fruition.
- Thanks to the efforts of the Colorado delegation, especially Congressman Skaggs and Senator Campbell, \$400,000 was appropriated to the Service in FY 1999 for the mouse. I am going to commit \$100,000 to the State to complete the habitat conservation plans for the mouse along the Front Range. The additional funds will be used for NEPA compliance on the HCPs , to work with landowners to conserve the mouse on private lands, and to work with the State to develop a recovery plan and recovery goals for the mouse.
- This is a draft rule and it is important for people to provide their comments to the Fish and Wildlife Service.
- On December 16, the Service will sponsor a workshop in Lakewood, Colorado to more fully explain the provisions of the rule and to answer your questions. After the first of the year the

Service will also hold a series of meeting in communities along the Front Range and in southeast Wyoming to take public comment on the rule. For those who can not attend one of the meeting, written comments will also be accepted. The public comment period will be open through February 1, 1999. The Service will consider all the comments it receives before it finalizes the rule.

Preble's Meadow Jumping Mouse

4(d) rule

Questions and Answers

1. What are Mouse Protection Areas and Potential Mouse Protection Areas? Are there Preble's meadow jumping mice outside of these areas?

In this rule, we are proposing to exempt all incidental take outside of specified Mouse Protection Areas and Potential Mouse Protection Areas from section 9 prohibitions of ESA. Mouse Protection Areas are areas where mice have been documented since 1992 and reported to the Service. Potential Mouse Protection Areas are areas that have a high potential to support Preble's based on habitat conditions. These areas make up the known and potential habitat for the Preble's mouse. While Preble's may exist outside these areas, under this rule incidental take of these mice would not be a violation of section 9 of the ESA.

2. Do I have to contact anyone before I graze cattle or cut hay in Mouse Protection Areas or Potential Mouse Protection Areas?

After this rule is finalized, any incidental take associated with existing, ongoing agricultural practices such as grazing and haying would not be a violation of the ESA. However, the rule will not exempt modifications to existing agricultural activities that increase impacts to or change Preble's habitat. If you have questions as to whether an activity is covered by this rule, you should contact the Fish and Wildlife Service: Colorado Field Office, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225-0207, telephone (303)275-2370 or Wyoming Field Office, 4000 Morrie Avenue, Cheyenne, Wyoming 82001, telephone (307)722-2374.

3. Do I have to talk to anyone before I try to get rid of mice in my house or barn?

No, under provisions of this rule any incidental take of Preble's associated with rodent control within 10 feet of a structure would not be considered a violation section 9 of the ESA.

4. What is the difference between "take" and "incidental take" of a threatened or endangered species?

Under section 9 of the ESA, to harass, harm, pursue, hunt, shoot, wound, trap, kill, or collect a listed species or attempt any of these would constitute "take." "Incidental take" is take that is incidental to, but not the purpose of, an otherwise legal activity. Incidental

take can be authorized through a section 10 permit from the Service, under section 7 consultation, or through a 4(d) rule. Under this rule certain categories of incidental take would not be violations of ESA.

5. How will this rule affect development, particularly in the Colorado Springs, Colorado to Cheyenne, Wyoming corridor?

All incidental take outside of specified Mouse Protection Areas and Potential Mouse Protection Areas would be exempt from section 9 prohibitions of ESA. This would provide some certainty as to where Preble's occurrence is or is not an issue. In addition, this rule is designed to simplify compliance with the ESA by giving local governments the option to allow up to 4 percent of the habitat in a mouse protection area to be impacted, provide that the habitat loss is fully mitigated. Incidental take associated with rodent control in or near structures, ongoing agricultural activities, maintenance and replacement of existing landscaping, and uses of water associated with existing water rights would be exempted from take provisions of section 9 of the ESA.

6. How will local governments participate? What if my county or city chooses not to participate?

Under this proposed rule, States, counties, and/or municipalities that manage land use at the local level may commit to use their authorities to protect Preble's habitat. Upon receiving Service concurrence, State/local authorities may approve development or actions that are consistent with defined protection standards and mitigation guidelines. The Service will provide assistance as required. Projects or actions within jurisdictions that elect not to enforce these standards would be subject to all the prohibitions on take unless the activity is otherwise exempt in this proposed rule. However, if you are undertaking an action that may harm Preble's within an area where the local government has chosen not to use the provisions in this rule, the Service can work directly with you to develop a habitat conservation plan and an incidental take permit under section 10 of the ESA. If there is Federal approval or funding involved, we will review the action under section 7 of the Act.

7. How much area does this proposed 4(d) rule cover?

The proposed rule exempts incidental take of the Preble's resulting from certain types of activities over the entire range of the mouse, which generally includes land from Colorado Springs north to the Medicine Bow National Forest in southeastern Wyoming. The rule also identifies about 1,000 miles of streams in Colorado and Wyoming as Mouse Protection Areas or Potential Mouse Potential Areas.

8. What do I need to do to comply with the ESA until the 4(d) rule is finalized?

Until the rule is finalized all, take of the Preble's is prohibited. Before undertaking any activity that may possibly kill or harm a Preble's or its habitat, you should contact the

Fish and Wildlife Service: Colorado Field Office, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225-0207, telephone (303)275-2370 or Wyoming Field Office, 4000 Morrie Avenue, Cheyenne, Wyoming 82001, telephone (307)722-2374.

9. How will this rule result in the conservation of the Preble's?

The proposed prohibitions and exemptions in this rule provide both for short-term conservation of Preble's and an avenue for development of meaningful long-term conservation efforts by State and local governments, agricultural interests, developers, and the general public.

This proposed rule defines protection areas and provides a significant role for State and local governments as partners in implementing the ESA. The rule is designed to guide development activities during the interim period while comprehensive conservation plans are being developed. By employing existing local development review and land use controls, participation by stakeholders and the level of review that proposed development activities receives will be greatly increased.

10. Overgrazing is frequently cited as one of the principal causes for the decline of Preble's. How will exempting existing agricultural activities, including grazing, promote the conservation of the mouse?

We believe that the exemption for certain agricultural practices will provide a positive incentive for agricultural interests to engage in voluntary conservation activities and will remove much of the existing reluctance by private landowners to allow Preble's surveys to be conducted on their lands. These surveys may lead to a more complete understanding of the status and distribution of the species. Situations where Preble's populations coexist with ongoing agriculture may provide valuable insight into habitat conditions required by Preble's and the specific types of grazing and farming practices that are compatible with Preble's. With this knowledge, our ability to develop an effective long-term recovery program will be enhanced.

11. How has the \$400,000 provided by Congress for Preble's conservation for fiscal year 1998 been used?

Of the \$400,000 provided by Congress in fiscal year 1998 for work on the Preble's mouse, \$220,000 was provided directly to the State of Colorado to lead the conservation planning effort. Approximately \$100,000 supported the U.S. Fish and Wildlife Service staff in working on the Preble's mouse, and \$80,000 was used for field research. The State of Colorado provided an additional \$100,000 toward the planning effort. In fiscal year 1999 Congress provided an additional \$400,000 for the mouse. This money will be used to provide additional support to the State lead conservation planning effort, develop a recovery plan and recovery goals for the mouse, work with ranchers and farmers to implement mouse conservation activities on their lands, and to initiate NEPA compliance on Habitat Conservation Plans.

12. What has been learned about the distribution of Preble's since it was listed?

Summer studies in 1998 documented Preble's at previously unknown sites in Larimer, Douglas, and El Paso Counties in Colorado, and additional sites in Wyoming including the Medicine Bow National Forest. Genetic testing of tissue samples from some of these mice will be conducted to verify that mice caught were Preble's. The western jumping mouse, a more common species, exists in the vicinity of some 1998 capture sites in Larimer County and in Wyoming and could be mistaken for Preble's.

13. How does this rule relate to the State lead conservation planning effort for Preble's?

This rule is meant to be in effect only until comprehensive conservation plans are developed for Preble's.

14. What happens if you don't have conservation plans in place in Colorado and Wyoming in 18 months when the special rule is due to expire?

The Service will evaluate the progress of the conservation planning effort and how effective the special rule is in conserving Preble's and then determine if the rule should be extended or eliminated.

15. Have you talked with landowners in the areas that will be affected some way by Preble's meadow jumping mouse?

Under Colorado's conservation planning process, three rounds of public meetings were held in each of five geographic areas that comprise the known range of Preble's in Colorado. Key drainages have been identified, threats to the Preble's have been ranked in importance and preliminary strategies to minimize or mitigate adverse impacts to Preble's were discussed with landowners. The Service is also working with State or local governments and landowners in Wyoming in similar conservation efforts.

16. Will Preble's conservation planning process in Colorado continue under the newly elected Owen's administration?

Representatives of the Governor-elect Bill Owen's transition team are aware of the comprehensive planning efforts for Preble's. We hope that the new administration will fully support the ongoing efforts and that the process will not be adversely affected by the change in administrations.

17. How have some of the government entities in Colorado assisted with this effort?

Local governments will be critical to the success of the conservation planning effort for the mouse. We are very encouraged by the progress to date and the willingness of local governments to become actively involved in the process. To date several Colorado counties and cities have passed resolutions supporting the planning process and have

indicated they will consider using their regulations, incentives, and ordinances to help protect the Preble's meadow jumping mouse.

18. What are the implications of this rule for projects that have to undergo Section 7 consultation?

This special rule does not change the obligation of Federal agencies to consult with the Fish and Wildlife Service concerning actions they authorize, fund, or carry out which may affect Preble's. We expect that Federal lands will be managed to conserve Preble's to the maximum extent. Many activities likely to affect Preble's will be subject to permitting requirements of the Army Corps of Engineers. When appropriate, we expect to apply the same type of approach reflected in this proposed rule to those consultations.

19. Will the public be given an opportunity to comment on the proposed rule? What will be the process for finalizing the rule?

The Service will host two public workshops (3:00-5:00 pm and 7:00-9:00 pm) on December 16 at the Sheraton Denver West, 360 Union Boulevard, Lakewood, Colorado, 303-987-2000, to fully explain the proposed rule. After January 1, 1999, additional meetings will be held with local governments and other stakeholders. You should send your comments concerning this proposed rule to LeRoy Carlson, Field Supervisor, Colorado Field Office, Ecological Services, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225-0207. Comments will be accepted through February 1, 1999. The Service will address comments received and consider them in formulating the final rule. For issuance of the final 4(d) rule the Service will assure National Environmental Policy Act compliance and conduct an internal section 7 consultation under the ESA.